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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/672,331

09/26/2003

Arthur Silverman

SILVERLINE 3.0-016

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EXAMINER

REDMAN, JERRY E

ART UNIT	PAPER NUMBER
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3634

MAIL DATE	DELIVERY MODE
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06/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/672,331	Applicant(s) SILVERMAN, ARTHUR	
	Examiner Jerry Redman	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 March 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6, 10-13, 15, 17-20, 22, 23, 25-27, 29, 30, 32, 33 and 35-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6, 10-13, 15, 17-20, 22-23, 25-27, 29-30, 32-33, and 35-41 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Status of the claims is as follows:

Claims 7-9, 14, 16, 21, 24, 28, 31, and 34 have been cancelled; and

Claims 1-6, 10-13, 15, 17-20, 22-23, 25-27, 29-30, 32-33, and 35-41 are herein addressed below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 10, 11, 13, 17, 19, 29, 30, 35, 36, 38, and 40-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese patent No. 58210289A to Sowa. Japanese patent No. 58210289A to Sowa discloses a window assembly comprising a window frame (3 which includes 6, 13, 14, 15, and 17), a window sash (4 which includes 5, 7, 8, and 10) constructed to be positioned within the window frame (3 which includes 6, 13, 14, 15, and 17) and capable of moving from a closed position to an open-tilted position and vice versa, a pair of parallel pivot pins (18) on the window sash (4 which includes 5, 7, 8, and 10), a pair of kidney shaped receptacles (16, i.e., slots, claim 17 recites these as channels) comprising slots therein and disposed within the window frame (3 which includes 6, 13, 14, 15, and 17) which accommodates movement of the window sash (4 which includes 5, 7, 8, and 10) from the closed position to the open-tilted position and vice versa. Japanese patent No. 58210289A to Sowa further discloses the window sash (4 which includes 5, 7, 8, and 10) cooperating

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with the window frame (3 which includes 6, 13, 14, 15, and 17) to limit the extend of the open-tilted position (the upstanding wall to the left of the kidney shaped receptacle (16) as shown in Figures 2 and 3 with the upstanding wall acting as a water dam with the top portion of the wall angled 90 degrees for supporting the window sash (4 which includes 5, 7, 8, and 10)).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 12, 18, 29, 33 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent No. 58210289A to Sowa in view of Yanessa ('201). All of the elements of the instant invention are discussed in detail except providing the pivot pins to be retractable. Yanessa ('201) discloses a sliding/pivoting sash having pivot pins, which are retractable. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Japanese patent No. 58210289A to Sowa with retractable pins as taught by Yanessa ('201) since retractable pivot pins allows the sash to be easily removed and attached to the window frame.

Claims 4, 15, 20, 22, 23, 25, 26, 32, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent No. 58210289A to Sowa in view of Menegazzo ('911). All of the elements of the instant invention are discussed in detail above except providing a channel extending along a portion of the window frame.

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Menegazzo ('911) discloses a window assembly comprising channel guide (16) extending along a window frame and having a kidney shaped receptacle (17) at a pivoting end. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the window assembly of Japanese patent No. 58210289A to Sowa with a channel guide extending along a portion of the frame as taught by Menegazzo ('911) since a channel extending a portion of the window frame allows the window sash to be tilted greater than 90 degrees from the normal.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese patent No. 58210289A to Sowa and Menegazzo as applied to claim 26 above, and further in view of Yanessa ('201). All of the elements of the instant invention are discussed in detail except providing the pivot pins to be retractable. Yanessa ('201) discloses a sliding/pivoting sash having pivot pins, which are retractable. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Japanese patent No. 58210289A to Sowa with retractable pins as taught by Yanessa ('201) since retractable pivot pins allows the sash to be easily removed and attached to the window frame.

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are still more limiting than that of the claims. As discussed in detail above, when two elements are physically attached together, then they are integral with one another. In this particular case, elements 6, 13,

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14, and 15 are mounted to elements 3 and 12 via screw (shown in figure 3) and are therefore "integral" with one another. It appears that all of the applicant's arguments are based on the receptacle/slot being "integral" with the frame or more specifically, the applicant argues how the slots/channels are "formed" within the frame. This argument/limitation is relying on the process of a product by process and carries little to no patentable weight. With respect to what the Examiner was suggesting was the fact that the slots/channels were positioned between a front and back surface of the frame and not extending out from the frame as Japanese patent No. 58210289A to Sowa discloses. All of the other arguments are based on the fact that the applicant still feels that process of how the receptacles are formed therein is patentably distinct and the Examiner's position is that in a product by process, little to no patentable weight is given to the process.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-F from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Cuomo, can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jerry Redman
Primary Examiner

Jerry Redman
Primary Examiner
Art Unit 3634